

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
SOUTHERN DISTRICT OF MISSISSIPPI

CHRISTOPHER L. BROWN,

Petitioner

v.

FCI-YAZOO CITY MEDIUM WARDEN,

*Respondent**(name of warden or authorized person having custody of petitioner)*

Case No.

3:22-cv-269-TSL-RPM
*(Supplied by Clerk of Court)***PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241****Personal Information**

1. (a) Your full name: Christopher L. Brown
- (b) Other names you have used: None
2. Place of confinement:
 - (a) Name of institution: FCI-Yazoo City Medium
 - (b) Address: P.O. Box 5000
Yazoo City, MS. 39194
 - (c) Your identification number: # 04013-095
3. Are you currently being held on orders by:

☒ Federal authorities
 ☐ State authorities
 ☐ Other - explain:

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
 MAY 23 2022
 ARTHUR JOHNSTON
 BY _____ DEPUTY
4. Are you currently:

☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
 If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: _____
 - (c) Date of sentencing: _____

☐ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☐ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☒ Other (explain): Unlawful and nonexistent offense in light of an intervening change in law by the U.S. Supreme Court and Fatally Defective Indictment

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: _____

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☒ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☒ Yes☐ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☒ Yes☐ No

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If "Yes," provide:

- (1) Name of court: Middle District of Louisiana
- (2) Case number: 3:15-cv-00225-SDD
- (3) Date of filing: 04/13/2015
- (4) Result: Denied
- (5) Date of result: 02/03/2016
- (6) Issues raised: Ineffective assistance of counsel claims

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: Mathis v. United States, was handed down after Mr. Brown's first 2255 Motion to Vacate was denied and Ground Two, should be addressed upon the merits as he was convicted of an nonexistent offense as his Section 924 (c) count of Indictment fails to state an federal offense.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes☐ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: Direct Appeal proceedings(b) Name of the authority, agency, or court: Fifth Circuit Court of Appeals(c) Date of filing: 06/09/2014(d) Docket number, case number, or opinion number: 14-30558(e) Result: Affirmed(f) Date of result: 04/06/2015(g) Issues raised: The District Court erred as Appellant's sentence was procedurally and substantively unreasonable

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: See Attached Memorandum of Law at page 1

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

See Attached Memorandum of Law at page 3

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: See Attached Memorandum of Law at page 9

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

See Attached Memorandum of Law at page 9

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: Mr. Brown did not raise either Ground One or Ground Two within any other appeal, thus, Ground One was unavailable as Mathis (2016), was not yet handed down yet and because Ground Two, presents a claim that he is serving an erroneous 5-year mandatory minimum sentence for a Fatally Defective Indictment in which fails to state an federal offense rendering it to be a nonexistent crime.

Request for Relief

15. State exactly what you want the court to do: WHEREFORE, Petitioner Brown, respectfully request that this Honorable Court GRANT his Pro Se 2241 Writ of Habeas Corpus Petition and VACATE Count Two. Possession of a Firearm in Furtherance of a Drug Trafficking Crime conviction and sentence and REDUCE his erroneous mandatory minimum sentence by five years as the interests of JUSTICE require such a result in the case herein.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 05/20/2022

x Christopher L. Brown
Signature of Petitioner

Signature of Attorney or other authorized person, if any